

# **EXHIBIT G**



**Freshfields Bruckhaus Deringer US LLP**

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**Via Email**

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March 1, 2024

**Re: *State of Texas et al. v. Google LLC*, No. 4:20-cv-957-SDJ (E.D.Tx.)**

Counsel:

I write further to our meet and confer on February 23, 2024, and in response to your letter of February 26, 2024.

**Chats.** Google has produced approximately 13,000 Chats. While Google is unable to make productions of Chats in RSMF format for technical reasons, we agree to use reasonable efforts to provide Plaintiffs with a list identifying Chats produced to date by Bates Number. The list is attached in spreadsheet form. We do not agree to provide the additional five metadata fields that Plaintiffs now request because, as set forth in our letter dated February 16, 2023, Google does not maintain those fields in the ordinary course of business and the governing ESI Order does not require the manual population of any fields. The metadata fields in the governing Order were heavily negotiated and there is no basis to deviate from them at this late juncture. As to retention policies, Appendix A sets forth a list of produced retention policies that are applicable to Chats.

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***Search.*** Google has already produced the trial transcripts of witnesses who are also ad tech custodians. Those are the transcripts most likely to contain information relevant to the claims and defenses in this case.

In addition, we have disclosed the extent to which additional witnesses, identified by Plaintiffs as being of interest to them, testified in open court. Although Google disagrees that their testimony is relevant, Plaintiffs are welcome to obtain and review transcripts in the public domain.

Plaintiffs have repeatedly asserted the irrelevance of *Search* documents to this case. We do not think that Plaintiffs' proposal to search for any reference to "advertising" is a reasonable methodology to identify additional potentially responsive material because this case concerns display advertising (as opposed to Search advertising). As a result, Plaintiffs' proposal would sweep in material that does not relate to the claims and defenses in this case. Moreover, as we have discussed, the *Search* case is governed by a separate confidentiality order; many of the exhibits in that case implicate third party confidential information that cannot be disclosed under the terms of that confidentiality order.

As a compromise, Google is willing to review any non-public trial transcripts of Google witnesses to ascertain whether their testimony bears on the claims and defenses in this case (e.g., digital advertising-related market definition or display ad tech products and services). If relevant testimony is identified, Google will produce relevant portions of testimony together with any exhibits that are referenced in those relevant portions, subject to the protective order in the *Search* case, *United States v. Google*, No. 20-cv-03010 (D.D.C.), ECF No. 98 ("*Search* Protective Order"). Google's approach is reasonable because it would limit the need for a burdensome line by line review of exhibits for third party confidential information that cannot be produced; only relevant material would need to be reviewed for compliance with the *Search* Protective Order.

***DTPA RFPs.*** As we discussed on Friday, Google would like to conclude any additional search term and custodian negotiations as soon as possible because Plaintiffs have already put the parties under significant time pressure of Plaintiffs' own making. As you know, there was no stay of discovery as to Plaintiffs' DTPA claims and Plaintiffs could have sought this discovery at any time during 2023 pursuant to Pre-Trial Order No. 3. MDL Dkt. No. 311; *see also* Pre-Trial Order No. 5, MDL Dkt. No. 394 (staying discovery as to Network Bidding Agreement, but not otherwise staying discovery). As you also know from prior negotiations, the custodian collection process alone can take weeks to complete once agreement is reached, and so it will already be difficult to complete any additional collection and review within the constrained period of fact discovery that Plaintiffs pressed for.

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As to search terms, notwithstanding that many of the terms are duplicative of previously-agreed terms and/or are not specific to Plaintiffs' DTPA claims, Google has tested the 23<sup>1</sup> new terms that Plaintiffs provided on Monday.<sup>2</sup> Plaintiffs' proposal sweeps in approximately 7.2 million documents, including families. Of those, nearly 3.5 million have not previously been exported to the review platform; this number is referred to as "new hits." These figures are prior to de-duplication.

Please see Appendix C for string-by-string hit results for the original 119 custodians in one of the ingestion sites (the "Sample Population"), which we can use as a sample for negotiating purposes. The Sample Population accounts for approximately half a million of the nearly 3.5 million new hits, or about 15%.

Google is still considering its counterproposal, but has identified at least the following elements that will likely need to be excluded from any workable counterproposal.

*First*, proposed String 21 accounts for a large majority of the hits (over 85% of new hits in the Sample Population). That is unsurprising because it is extraordinarily broad and it is not limited to the conduct at issue in this case. It seeks all references to any policies, articles, blogs, or Help Center pages in conjunction with references to updates, introductions, launches, roll outs, announcements, releases, implementations, initiations, effectuations, executions, or operationalizations, in connection with any product, including all non-ad tech products.<sup>3</sup>

*Second*, 12 of Plaintiffs' proposed strings<sup>4</sup> involve "further modifying strings" that are not related to Plaintiffs' DTPA claims. These modifying strings relate to the underlying Google products and auction mechanics, rather than the "communications with customers and public-facing statements" referred to in your prior submission to Special Master Moran, ECF No. 235 at 15, and in your February 26 letter. The search strings at issue are those that contain the following modifying strings:

- *(intro\* OR launch\* OR (roll\* w/2 out) OR announc\* OR releas\* OR implement\* OR initiat\* OR effectuat\* OR execut\* OR operationaliz\*)*
- *(updat\* OR chang\* OR revis\* OR amend\* OR add OR added OR addition\* OR correct\* OR position\*)*
- *(recollect\* OR redistribute\* OR subsid\* OR debt\* OR pool\* OR (bank w/2 account))*

<sup>1</sup> Accounting for Plaintiffs' five "root/initial search strings" and "further modifying strings," 23 different permutations of search strings must be tested.

<sup>2</sup> As noted on yesterday's meet and confer and in the course of MDL negotiations, Plaintiffs' proposed use of "AND" modifiers rather than proximity searches is overbroad and untenable. In the spirit of refining these terms, Google instead tested them using "within 10" proximity modifiers.

<sup>3</sup> The full search string is *((Help w/1 Center\*) OR HC OR blog\* OR article\* OR polic\*) w/10 (updat\* OR intro\* OR launch\* OR (roll\* w/2 out) OR announce\* OR release\* OR implement\* OR initiat\* OR effectuat\* OR execut\* OR operationaliz\*)*.

<sup>4</sup> Strings 1, 2, 5, 6, 7, 10, 11, 12, 15, 16, 17, and 20.

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As to custodians, Google is prepared to make a proposal of its own subject to the parties reaching agreement on a total number of new custodians. Google proposes that the parties agree no more than five new custodians be added.

We remain available to meet and confer.

Sincerely,

/s/ Robert J. McCallum

Robert J. McCallum

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**APPENDIX A****Retention Policies Applicable to Google Chat (January 1, 2016 to the present)**

<b>Policy</b>	<b>Time Period</b>	<b>Beginning Bates</b>
Gmail Retention Policy	August 21, 2015 - February 25, 2021	GOOG-AT-MDL-009709510
Google Chat Retention Policy - Information Governance (IG) Help Center	November 18, 2020 - February 25, 2021	GOOG-AT-MDL-009709520
Google Chat Retention Policy - Information Governance (IG) Help Center	February 26, 2021 - September 30, 2021	GOOG-AT-MDL-009709508
Google Chat Retention Policy - Information Governance (IG) Help Center	October 1, 2021 - December 7, 2021	GOOG-AT-MDL-009709522
Google Chat Retention Policy - Information Governance (IG) Help Center	December 8, 2021 - May 16, 2023	GOOG-AT-MDL-009709506
Google Chat Retention Policy - Information Governance (IG) Help Center	May 17, 2023 - Present (Current Policy)	GOOG-AT-MDL-009709518

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**APPENDIX B**

**Bates Numbers of Chats Produced to Date**

**[Attached to Cover Email]**

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**APPENDIX C****DTPA Search Term Hit Counts Across Sample Population**

<b>No.</b>	<b>Search String As Run By Google</b>	<b>Modifications For Testing Purposes</b>	<b>Hits +Fam</b>	<b>New Hits +Fam</b>
1	((((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR mechanics OR feature* OR optimization* OR program* OR qualit* OR enhance*)) w/10 (intro* OR launch* OR (roll* w/2 out) OR announc* OR releas* OR implement* OR initiat* OR effectuat* OR execut* OR operationaliz*))		23,536	7,120
2	((((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR mechanics OR feature* OR optimization* OR program* OR qualit* OR enhance*)) w/10 (updat* OR chang* OR revis* OR amend* OR add OR adds OR adding OR added OR addition* OR correct* OR position*))	Add* changed to add OR adds OR adding OR added OR addition*.	34,099	3,770
3	((((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR mechanics OR feature* OR optimization* OR program* OR qualit* OR enhance*)) w/10 (dear OR updat* OR comms OR communicat* OR announc* OR notif* OR blog* OR notic* OR shar* OR explain* OR explanation* OR inform* OR request* OR inquir* OR ((verbal* OR internal* OR external*) w/3 (only OR shar* OR confidential*)) OR "in writing" OR (limit* w/2 (detail* OR specif*)) OR language OR reactiv* OR question* OR pre-brief* OR brief* OR (talking w/2 point*) OR narrative* OR rational* OR reason* OR secret* OR fram* OR sensitiv* OR transparen* OR manip* OR omit* OR omission* OR represent* OR fals* OR mislead* OR untru* OR dishonest* OR ("not" w/2 (true OR honest)) OR disclos* OR conceal* OR omit* OR omission OR hide OR hiding OR hidden OR fraud* OR deceptive OR deceiv* OR unfair* OR ("not" w/2 fair*) OR lie OR lying))	Added bolded and underlined parentheses. Added quotation marks around references to "not".	39,386	6,090
4	((((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR mechanics OR feature* OR optimization* OR program* OR qualit* OR enhance*)) w/10 (inquir* OR pre-brief* OR brief* OR question* OR feedback OR outreach OR complain* OR angry OR mad OR upset* OR problem* OR unfair OR exploit* OR leverage* OR harm* OR hurt* OR protest* OR oppose* OR object* OR annoy* OR dissatisf* OR disadvantage* OR degrad* OR disfavor* OR respond* OR response* OR (rais* w/2 concern*) OR FAQ OR "PR"))		12,146	2,436
5	((((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR mechanics OR feature* OR optimization* OR program* OR qualit* OR enhance*)) w/10 (recollect* OR redistribute* OR subsid* OR debt* OR pool* OR (bank w/2 account))		529	55



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6	((RPO OR DRPO OR ((optimiz* OR reserve*) w/2 (pric* OR bid*)) OR ((dynamic* OR increase* OR raise* OR update* OR chang*) w/2 (floor* OR reserve*))) w/10 (intro* OR launch* OR (roll* w/2 out) OR announc* OR releas* OR implement* OR initiat* OR effectuat* OR execut* OR operationaliz*))	Added bolded and underlined parentheses.	20,567	3,857
7	((RPO OR DRPO OR ((optimiz* OR reserve*) w/2 (pric* OR bid*)) OR ((dynamic* OR increase* OR raise* OR update* OR chang*) w/2 (floor* OR reserve*))) w/10 (updat* OR chang* OR revis* OR amend* OR add OR adds OR adding OR added OR addition* OR correct* OR position*))	Added bolded and underlined parentheses. Add* changed to add OR adds OR adding OR added OR addition*.	26,751	5,706
8	((RPO OR DRPO OR ((optimiz* OR reserve*) w/2 (pric* OR bid*)) OR ((dynamic* OR increase* OR raise* OR update* OR chang*) w/2 (floor* OR reserve*))) w/10 (dear OR updat* OR comms OR communicat* OR announc* OR notif* OR blog* OR notic* OR shar* OR explain* OR explanation* OR inform* OR request* OR inquir* OR ((verbal* OR internal* OR external*) w/3 (only OR shar* OR confidential*)) OR "in writing" OR (limit* w/2 (detail* OR specif*)) OR language OR reactiv* OR question* OR pre-brief* OR brief* OR (talking w/2 point*) OR narrative* OR rational* OR reason* OR secret* OR fram* OR sensitiv* OR transparen* OR manip* OR omit* OR omission* OR represent* OR fals* OR mislead* OR untru* OR dishonest* OR ("not" w/2 (true OR honest)) OR disclos* OR conceal* OR omit* OR omission OR hide OR hiding OR hidden OR fraud* OR deceptive OR deceiv* OR unfair* OR ("not" w/2 fair*) OR lie OR lying))	Added bolded and underlined parentheses. Added quotation marks around references to "not".	32,311	4,942
9	((RPO OR DRPO OR ((optimiz* OR reserve*) w/2 (pric* OR bid*)) OR ((dynamic* OR increase* OR raise* OR update* OR chang*) w/2 (floor* OR reserve*))) w/10 (inquir* OR pre-brief* OR brief* OR question* OR feedback OR outreach OR complain* OR angry OR mad OR upset* OR problem* OR unfair OR exploit* OR leverage* OR harm* OR hurt* OR protest* OR oppose* OR object* OR annoy* OR dissatisf* OR disadvantage* OR degrad* OR disfavor* OR respond* OR response* OR (rais* w/2 concern*) OR FAQ OR "PR"))	Added bolded and underlined parentheses.	13,566	1,782
10	((RPO OR DRPO OR ((optimiz* OR reserve*) w/2 (pric* OR bid*)) OR ((dynamic* OR increase* OR raise* OR update* OR chang*) w/2 (floor* OR reserve*))) w/10 (recollect* OR redistribute* OR subsid* OR debt* OR pool* OR (bank w/2 account)))	Added bolded and underlined parentheses.	766	57
11	((DRS OR (dynamic* w/3 (revshare OR revenue* OR fee*)) OR dynamicreserve OR tDRS) w/10 (intro* OR launch* OR (roll* w/2 out) OR announc* OR releas* OR implement* OR initiat* OR effectuat* OR execut* OR operationaliz*))	Removed extra ( in front of dynamic	5,851	532

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12	((DRS OR (dynamic* w/3 (revshare OR revenue* OR fee*)) OR dynamicreserve OR tDRS) w/10 (updat* OR chang* OR revis* OR amend* OR add OR adds OR adding OR added OR addition* OR correct* OR position*))	Removed extra ( in front of dynamic. Add* changed to add OR adds OR adding OR added OR addition*.	6,404	611
13	((DRS OR (dynamic* w/3 (revshare OR revenue* OR fee*)) OR dynamicreserve OR tDRS) w/10 (dear OR updat* OR comms OR communicat* OR announc* OR notif* OR blog* OR notic* OR shar* OR explain* OR explanation* OR inform* OR request* OR inquir* OR ((verbal* OR internal* OR external*) w/3 (only OR shar* OR confidential*)) OR "in writing" OR (limit* w/2 (detail* OR specif*)) OR language OR reactiv* OR question* OR pre-brief* OR brief* OR (talking w/2 point*) OR narrative* OR rational* OR reason* OR secret* OR fram* OR sensitiv* OR transparen* OR manip* OR omit* OR omission* OR represent* OR fals* OR mislead* OR untru* OR dishonest* OR ("not" w/2 (true OR honest)) OR disclos* OR conceal* OR omit* OR omission OR hide OR hiding OR hidden OR fraud* OR deceptive OR deceiv* OR unfair* OR ("not" w/2 fair*) OR lie OR lying))	Removed extra ( in front of dynamic. Added bolded and underlined parentheses. Added quotation marks around references to "not".	10,515	445
14	((DRS OR (dynamic* w/3 (revshare OR revenue* OR fee*)) OR dynamicreserve OR tDRS) w/10 (inquir* OR pre-brief* OR brief* OR question* OR feedback OR outreach OR complain* OR angry OR mad OR upset* OR problem* OR unfair OR exploit* OR leverage* OR harm* OR hurt* OR protest* OR oppose* OR object* OR annoy* OR dissatisf* OR disadvantage* OR degrad* OR disfavor* OR respond* OR response* OR (rais* w/2 concern*) OR FAQ OR "PR"))	Removed extra ( in front of dynamic	2,805	151
15	((DRS OR (dynamic* w/3 (revshare OR revenue* OR fee*)) OR dynamicreserve OR tDRS) w/10 (recollect* OR redistribute* OR subsid* OR debt* OR pool* OR (bank w/2 account)))	Removed extra ( in front of dynamic	320	2
16	((Bernanke OR Bell) w/10 (intro* OR launch* OR roll* w/2 out) OR announc* OR releas* OR implement* OR initiat* OR effectuat* OR execut* OR operationaliz*))		32,230	4,457
17	((Bernanke OR Bell) w/10 (updat* OR chang* OR revis* OR amend* OR add OR adds OR adding OR added OR addition* OR correct* OR position*))	Add* changed to add OR adds OR adding OR added OR addition*.	39,452	5,463

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18	((Bernanke OR Bell) w/10 (dear OR updat* OR comms OR communicat* OR announc* OR notif* OR blog* OR notic* OR shar* OR explain* OR explanation* OR inform* OR request* OR inquir* OR ((verbal* OR internal* OR external*) w/3 (only OR shar* OR confidential*)) OR "in writing" OR (limit* w/2 (detail* OR specif*)) OR language OR reactiv* OR question* OR pre-brief* OR brief* OR (talking w/2 point*) OR narrative* OR rational* OR reason* OR secret* OR fram* OR sensitiv* OR transparen* OR manip* OR omit* OR omission* OR represent* OR fals* OR mislead* OR untru* OR dishonest* OR ("not" w/2 (true OR honest)) OR disclos* OR conceal* OR omit* OR omission OR hide OR hiding OR hidden OR fraud* OR deceptive OR deceiv* OR unfair* OR ("not" w/2 fair*) OR lie OR lying))	Added bolded and underlined parentheses. Added quotation marks around references to "not".	69,591	14,272
19	((Bernanke OR Bell) w/10 (inquir* OR pre-brief* OR brief* OR question* OR feedback OR outreach OR complain* OR angry OR mad OR upset* OR problem* OR unfair OR exploit* OR leverage* OR harm* OR hurt* OR protest* OR oppose* OR object* OR annoy* OR dissatisf* OR disadvantage* OR degrad* OR disfavor* OR respond* OR response* OR (rais* w/2 concern*) OR FAQ OR "PR"))		16,600	4,270
20	((Bernanke OR Bell) w/10 (recollect* OR redistribute* OR subsid* OR debt* OR pool* OR (bank w/2 account)))		1,996	51
21	((Help w/1 Center*) OR HC OR blog* OR article* OR polic*) w/10 (updat* OR intro* OR launch* OR (roll* w/2 out) OR announce* OR release* OR implement* OR initiat* OR effectuat* OR execut* OR operationaliz*)	Added bolded and underlined parentheses.	1,119,056	470,786
22	((Help w/1 Center*) OR HC OR blog* OR article* OR polic*) w/10 ((auction* OR AdX OR (ad w/2 exchange) OR ecosystem*) w/3 (dynamic* OR feature* OR program* OR qualit* OR enhance*))	Added bolded and underlined parentheses.	5,662	728
23	((Help w/1 Center*) OR HC OR blog* OR article* OR polic*) w/10 ((comply* OR complianc*) w/2 (contract* OR agreement*))	Added bolded and underlined parentheses.	1,597	444
		<b>Total</b>	<b>1,316,403</b>	<b>517,489</b>